



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0370	Title:	Replace RIGWA with permit fee for sand and gravel operations
Primary Sponsor:	Perry, Gary L	Status:	As Amended

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$220,102	\$264,040	\$270,393	\$282,787
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$394,661	\$394,661	\$394,661	\$394,661
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: This bill would require most private, county, city and town opencut mining permittees to submit a yearly fee of \$0.025 per cubic yard of material mined, which would be based on its annual report. Once the fee collection process is underway, this would provide an estimated \$373,329 per year, which would fund the addition of 4.00 FTE for the Opencut Mining Program. These opencut operations will be exempt from the resource indemnity and ground water assessment (RIGWA) tax which reduces revenue to the RIGWA state special revenue account by \$70,000 per year.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

1. SB 370 as amended establishes an opencut annual fee for certain opencut mines and exempts those opencut operations that pay the opencut annual fee from the resource indemnity and ground water assessment tax (RIGWA); establishes a special revenue fund into which the fees will be deposited; and clarifies that the open-cut annual fee does not apply to permitted operations that mine, extract, or produce bentonite. The bill also clarifies that cities, counties and towns are also responsible for paying the opencut

fee for opencut operations. The bill also provides a retroactive exemption for cities, counties and towns from the RIGWA tax for tax years beginning after December 31, 2000.

2. The potential amount of revenue generated by the annual fee system is estimated to be \$466,661 per year, based upon the volume of materials mined by all affected permittees as reported in annual reports for calendar year 2007 (18,666,431 cubic yards X \$0.025 per cubic yard). Assuming that similar volumes will be mined in the next four fiscal years, the Department of Environmental Quality (DEQ) would collect similar fees in those fiscal years.
3. The annual revenue would provide DEQ with additional funding to hire the equivalent of 4.00 FTE for processing permit applications and amendments, inspecting opencut operations, and reviewing proposed bond releases. DEQ would hire two full time environmental specialists, one full time compliance technician, and one full time administrative assistant. The administrative assistant position would manage the fee system.
4. Personal services costs would be: \$122,554 in FY 2010, \$167,491 in FY 2011, \$171, 678 in FY 2012, and \$175,970 in FY 2013. Operating expenses would be \$97,548 in FY 2010, \$96,549 in FY2011, \$98,715 in FY 2012, and \$106,817 in FY 2013, which would include supplies, travel, communications, education/training, vehicle lease, contracted services, indirects, and first year office set up costs. The cost of developing and maintaining a data system is estimated at \$10,000 per year.
5. The fees would be submitted with the annual reports for mining activity of the previous year; the annual reports are required to be submitted no later than March 1. Thus the initial fee collections would not begin until midway through FY 2010.
6. Staff would be hired by October 1, 2009, and those staff costs as well as related operational expenses would be paid by the existing Opencut Mining Program budget, until sufficient amounts of initial fees were collected to begin expenditures from the fees.

Department of Revenue (DOR)

7. In FY 2008 these operations (which did not include bentonite) generated \$70,000 in resource indemnity and ground water assessment (RIGWA) tax revenue that was deposited in a special revenue fund. Under this bill, those RIGWA collections would no longer be deposited in the special revenue fund.
8. In the official revenue estimates, growth in the RIGWA tax generated by these materials is estimated to be flat for FY 2009 through FY 2011. For the purposes of this fiscal note, FY 2012 and FY 2013 are also assumed to be flat. Therefore, the estimated reduction to RIGWA tax is \$70,000 per year.
9. Per 15-38-106 MCA, the balance remaining in RIGWA, after statutory appropriations, is transferred to the following funds as follows: Environmental Quality Protection Fund (25%), Hazardous Waste/CERCLA (25%) and Natural Resources Projects (50%). Therefore the estimated reduction to these funds is \$17,500 each to the Environmental Quality Fund and the Hazardous Waste/CERCLA Fund and \$35,000 to the Natural Resources Projects Fund.
10. These funds appear to have sufficient remaining fund balance such that expenditures will not need to be reduced in the immediate future.

	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>	<u>FY 2012</u> <u>Difference</u>	<u>FY 2013</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	3.00	4.00	4.00	4.00
<u>Expenditures:</u>				
Personal Services	\$122,554	\$167,491	\$171,678	\$175,970
Operating Expenses	\$97,548	\$96,549	\$98,715	\$106,817
TOTAL Expenditures	\$220,102	\$264,040	\$270,393	\$282,787
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$220,102	\$264,040	\$270,393	\$282,787
TOTAL Funding of Exp.	\$220,102	\$264,040	\$270,393	\$282,787
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (New)	\$466,661	\$466,661	\$466,661	\$466,661
State Special Revenue (EQPF)	(\$17,500)	(\$17,500)	(\$17,500)	(\$17,500)
State Special Revenue (Haz Waste)	(\$17,500)	(\$17,500)	(\$17,500)	(\$17,500)
State Special Revenue (NR Prjcts)	(\$37,000)	(\$37,000)	(\$37,000)	(\$37,000)
TOTAL Revenues	\$394,661	\$394,661	\$394,661	\$394,661
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$174,559	\$130,621	\$124,268	\$111,874

Effect on County or Other Local Revenues or Expenditures:

1. Local government permittees would be subject to the annual fee. This may have a significant impact on certain jurisdictions, depending on the level of their resources and the volume of opencut products mined in any given year.
2. The amended bill retroactively exempts from the RIGWA tax a county, city, or town that holds a permit for an opencut mine to tax years beginning after December 31, 2000. If any counties, cities or towns have back taxes for this time period, the amended bill eliminates the liability. Any taxes owed for tax year 2000 would not be eliminated.

Technical Notes:

1. This legislation does not provide for follow-up, recourse, penalties, etc. normally associated with state special revenue funds if a permit holder does not pay the fee.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date



Dedication of Revenue 2011 Biennium

SB 370

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

Yes. The citizens of Montana would benefit by timely reviews of permit applications and the assurance that permits issued would comply with applicable regulatory statutes and rules and a greater degree of environmental protection will be offered.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

Creating a fee system to provide additional support to the needs of the program targets a large portion of the primary users of the program service (all opencut mining operators, except state and federal agencies and bentonite-producing operations), instead of attempting to acquire more funding from the general fund which is subject to many competing needs.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**

No. The source of new revenue would be relevant to supporting the addition of 4.00 FTE and an electronic data management system to the program. Existing staff in the opencut mining program will continue to be supported by current level funding.

- d) Does the need for this state special revenue provision still exist? X Yes ___ No (Explain)**

The opencut mining program has a serious need for new staff to make the program more effective and timely in meeting its responsibilities under the law.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**

No, it does not change its ability so scrutinize budgets. This state special revenue fund and associated expenditures will be presented in HB 2 in future biennia.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**

Yes. This revenue would be used to make the program effective and timely in meeting its responsibilities.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**

The Department of Environmental Quality and the Permitting and Compliance Division currently maintain a number of fee programs. However, the creation of an annual fee system would add a new dimension to the opencut mining program's accounting and budgeting activities, because it would involve collecting and managing fees from approximately 1700 opencut mining operations (based on current figures). This new dimension would require a full-time compliance technician and administrative assistant to administer the fee system and the expedited services to be provided by the program. If the program/activity were general-funded in FYs 2010-2013, we could and would adequately account for the activity.